IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

PRESENT:

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

&

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO :16759 of 2007

DATED:9.8.2007.

Between:

The Govt. of A.P rep by its Principal Secretary to Govt.
Industries & Commerce Dept Secretariat, Hyderabad
& another.

.... PETITIONERs

AND

Mohd Ali, Footwear Demonstrator

.....RESPONDENT

THE HON'BLE SMT JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO:16759 OF 2007

ORDER: (Per the Honourable Smt.Justice T.Meenakumari)

The petitioner has filed the present writ petition seeking to call for the records pertaining to the order in O.A.No:5111 of 2003, dated 10.8.2006 of the tribunal and set aside the same.

The respondent is the applicant. He has filed the O.A. challenging the Government Memo No:17717/IE/A2/2000-12, dated 9.4.2003 issued by the 1st respondent rejecting the request of the applicant for promotion as production foreman and consequential promotion to the higher cadres as illegal and declare the action of the respondents in not promoting the applicant as production foreman, assistant director and so on at the relevant point of time though he is fully qualified and eligible while promoting the unqualified persons as production foreman as illegal and direct the respondents to issue notional promotion to the applicant as foreman w.e.f 7.3.1973, as assistant director w.e.f. 1981, as deputy director w.e.f 1987 and as joint director w.e.f 1993 with all consequential benefits such as fixation of pay in each post and pay arrears following such fixation. The tribunal having observed that the applicant is a better placed person even

comparing to D.R.V. Ratnam and Shaik Mahaboob, who have already been given the benefit and the case of D.R.V. Ratnam was considered after the retirement and in the instant case, the applicant has already retired and if the intention of the respondents was to give credit for the length of service in the case of D.R.V Ratnam, the same yard stick has to be applied to the case of the applicant also since the applicant was also appointed in the year 1963 and retired without any promotion in spite of the fact that he was eligible to get the promotion and therefore, denying the benefit, which was given to D.R.V.Ratnam and Shaik Mahaboob, to the applicant, amounts to discrimination, which cannot be sustained and therefore, the impugned memo No:17717/IE/A2/2000-12, dated 9.4.2003 is liable to be set aside, allowed the O.A directing the respondents to extend the same benefit which was given to D.R.V.Ratnam and Shaik Mahaboob, who were unqualified to hold the post of production foreman, to the applicant, who was qualified to hold the said post and pass appropriate orders in this regard within a period of six Weeks from the date of receipt of the said order. Having aggrieved by the same, the present writ petition is filed by the respondents.

Heard the learned G.P. for Services-I as well as the learned counsel for the applicant. Perused the material available on record as well as the order impugned.

Except stating that in case of admitting the plea of the individual at this juncture, there is a financial implication in giving notional promotion to the applicant in various other categories on par with the two individuals in question and it will be an unnecessary burden to the State Exchequer for the reason that

the applicant has already retired from service on 31.8.1998, the respondents have neither denied the promotion given to the two individuals in question nor placed any material on record as to the non eligibility of the applicant for promotion. Apart from that, it is the case of the respondents that claiming promotion, is not as a matter of right.

There is no dispute as to the lengthy service of the applicant as well as the service and promotion of the above two individuals. It is the case of the applicant that though he is eligible and better placed person than the above two persons, for promotion, his case has not been considered for promotion. It is also not in dispute that even the case of D.R.V.Ratnam was considered for promotion after his retirement. Therefore, extending the benefit of promotion to D.R.V.Ratnam and Shaik Mahaboob alone while denying the same to the applicant in the similar facts and circumstances of the case, amounts to discrimination and violation of principles of natural justice as rightly observed by the tribunal. Hence, We feel that the tribunal is justified in passing the order impugned. We see no merits in this writ petition and the same is liable to be dismissed.

In the result, this writ petition is dismissed. No costs.

(JUSTICE T.MEENAKUMARI)

9th August, 2007

(JUSTICE G.CHANDRAIAH)

gurc

THE HON'BLE SMT. JUSTICE T.MEENA KUMARI

&

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

-
-
-
-
-
-
-
-
-
-
-
-
-
-

WRIT PETITION NO:16759 of 2007

(Order delivered by the Honourable Smt.Justice T.Meena Kumari)

-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-

9th August, 2007.